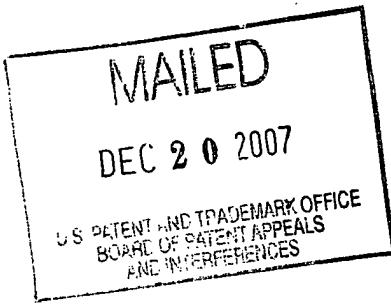


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte WAYNE COHEN

Application 10/796,446

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on December 10, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below.

The "Evidence Appendix", as set forth in 37 CFR § 41.37(c)(1)(ix); and the "Related Proceedings Appendix", as set forth in 37 CFR § 41.37(c)(1)(x), are missing from the Appeal Brief filed February 21, 2006. A Paper that is in compliance with 37 CFR § 41.37(c)(1)(ix) and 37 CFR § 41.37(c)(1)(x) is required.

Upon review of the Examiner's Answer filed on June 2, 2006, there is no indication that an appeal conference has been conducted, since only one of the

conferees have signed the Examiner's Answer.

See, § 1207.01 of the Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 3, August 2005) it states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held. [Emphasis added.]

Further, an Information Disclosure Statement (IDS) was filed on March 9, 2004. It is not apparent from the record that the examiner considered the statements submitted or notified applicants of why their submission did not meet the criteria set forth in 37 CFR §§ 1.97 and 1.98.

Accordingly, it is

ORDERED that the application is electronically returned to the Examiner to:

- 1) hold the Appeal Brief filed on February 21, 2006, defective;
- 2) notify appellants to file a Paper providing the "Evidence Appendix", as set forth in 37 CFR § 41.37(c)(1)(ix) and the "Related Proceedings Appendix", as set forth in 37 CFR § 41.37(c)(1)(x).
- 3) consider the Paper as required by 37 CFR 41.37(c)(1)(v), CFR §

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41.37(c)(1)(ix) and 37 CFR § 41.37(c)(1)(x);

- 4) for taking corrective action regarding the appeal conference;
- 5) for consideration of the Disclosure Statement filed on March 9, 2004; and
- 6) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: Patrick J. Nolan
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PJN/gjh

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